UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
JAMES C. McELWEE,

Plaintiff,

10 Civ. 138 (KTD)

-vs-

COUNTY OF ORANGE,

Defendant.
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**DECLARATION OF LORETTA McELWEE IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK )
)
COUNTY OF ORANGE )

Pursuant to 28 U.S.C. § 1746, LORETTA McELWEE states under penalty of perjury:

1. My son is James McElwee, the plaintiff in this lawsuit. James was born on May 11, 1974. Within the last 10 years, he was diagnosed with Aspergers' Syndrome, which is on the autistic spectrum. Prior to that, he was diagnosed with Pervasive Developmental Disorder. Aspergers' is a more recent diagnosis in the field of developmental disabilities.

2. In 1980, when James was six years old, Florida Union Free School District documented that James was enrolled in Special Education with a ED (emotionally disturbed) classification from Grade 1 through 1994, when he completed his program at BOCES in Goshen N.Y. with an IEP diploma. He then transitioned to perform volunteer work at Valley View since he had done an internship there during his time at BOCES.

3. In March 1981, James' first and second grade teacher noted in a note home that instead of yelling at himself, James now comforted himself by saying "it's ok Jim .. don't get upset." He was anxious to please always asking, "Am I being good?" This continues to this day when he talks to people. If he thinks he did something wrong he is harsh on himself and will think he needs to be punished.
4. An exhibit to this declaration is my summary of James's development from my review of his academic and therapy records.
5. Based on my experience as his mother, it is apparent to almost anyone (young adults to older people) that James is "different." Depending on the circumstances of interaction, one can usually notice within 10 to 30 minutes that James has a developmental disability, if not sooner. In preparation for this sworn statement, I asked friends and family members as well as acquaintances if they would quickly recognize that James was "different." The response from all was "Absolutely."
6. James's body language includes excessive smiling or grimaces or rolling his eyes to touching his legs or wringing his hands/fingers (a sign of anxiety). These physical actions vary with whether he is talking to young children or adults in a friendly fashion or to someone in what he might consider an authority position. When he is happy or content his feels these facial gestures make him look "cute" or "adorable." One can readily notice he does not usually maintain eye contact very well. This has been a lifelong condition.
7. James's condition conflicts with socialization and communication. As a result of his condition, it is difficult for James to have extended, mature conversations with

other adults. He becomes self-conscious and makes unusual facial expressions. He also makes reference to religious imagery, often talking about God.

8. James has a lack of affect. By this I mean that his speech is sometimes flat and difficult to understand because there is no tone or pitch. His moods can be giddy at times or he is otherwise totally not interested in anyone. As his parent, and although he is an adult, James has a total lack of interest in almost anything I may say to him or even greet him. He will make an effort to find the cat to say goodbye in the morning and may say goodbye to the dog and then walk out the door without saying goodbye to me until I say goodbye to him. He never asks how someone is doing even if he knows they may have been ill. His lack of social skills is typical of those with Asperger's. Once, he asked me if he had to go to my son's wedding party even though he did go to the wedding.

9. James does not readily pick up on social cues and he is often unable to read or interpret body language, start or maintain a conversation or take turns talking. He is often resistant to changes in his routine and often cannot recognize subtle differences in speech tone, pitch, and accent that alter the meaning of someone's speech. If someone is trying to get him to change the conversation (such as when he starts getting to personal with others), he cannot pick up cues to change the topic. He gets almost manic when he is overly enjoying something and does not want to be interrupted. Like many people with Aspergers', he does not always understand a joke and takes a sarcastic comment literally.

10. James is immature in many ways and often he seems like a 14-15 year-old in a 36

year-old's body, and sometimes vice-versa. His behavior sometimes is on target until something unpleasant comes up. For example, if you ask him to let the other person talk, or suggest a comment was too personal, he will automatically claim, "I have rights," and become adamant thinking he can do whatever he pleases. Although he does not do this as often as in the past, he will talk to himself aloud.

11. James's disability affects his ability to make a living. I have observed that he cannot maintain employment due to his Asperger's, which affects his ability to concentrate and focus. Instead, he has done volunteer work to keep him occupied and to provide a feeling of doing for others.

12. It is also difficult for James to fully care for himself. Although James is able to clean and feed himself, he has lived with me for his entire life. He is now 36 years old, and I do not foresee him living alone anytime soon. Based on what I have observed, he would not be able to manage his finances, or handle the routine responsibilities of home ownership. So far as I can tell, James will always need assisted living, either through living with me or in a group setting.

13. James can do minimal chores, such as microwave cooking, making coffee and soup and laundering his clothes and linens. Only recently has he been able to do laundry. He needs guidance often to follow through on many of these tasks, as he does them with minimal efforts and needs to be "pushed along" to complete them properly. For example, if he is shoveling snow or mowing the lawn, James exerts minimal effort so that he may go back inside the house to watch TV and listen to music. He can survive in an apartment with guidance from a case worker to learn

to shop or do finances and clean his living area, including the bathroom.

14. On November 30, 2009, after my son told me that Robin Darwin met with him to discuss his alleged misconduct at the nursing home, I called Robin Darwin. As reflected in Darwin's handwritten notes from that conversation, I told her that my son "is not like everyone else" and that he should not be discriminated against simply because he was looking at people. I also told Darwin that she should not want to discriminate against my son just because he has a disability. I cannot recall if I told Darwin that my son has Asperger's Syndrome, but she did not ask me for any clarification about his disability. I did ask Darwin to call my son's therapist, who could better explain why my son acts the way that he does. So far as I know, Darwin did not call his therapist for clarification.

15. I swear under penalty of perjury that the above is true and correct.

Loretta McElwee

LORETTA McELWEE 1/13/11

**APPENDIX 1 TO DECLARATION**

Loretta McElwee's summary of James McElwee's academic and therapy files

1/6/11

Additional comments for affidavit

I went through many more documents through my son's educational years .. not sure where these can be slotted in but I will give you a listing of quotes about James that have been taken directly off his records

**6/5/81** J. Benowitz (counselor) "James is a bright alert boy who expresses his many fears & concerns through repetitive words and gestures often out of context and in a ritualized manner .. he appears sensitive to the point of fragility and is often emotionally upset by seemingly minor and routine incidents such as a break in his play by the conversation of another .. has difficulty following along in group activieiss, preferring to set his own pace and structure .. he is interested in his peers but relates to them in the manner of a much younger child"

**6/82** J. Benowits (counselor) "made academic progress .. emotional growth .. much the same as early in year.. extremely sensitive to external stimuli, particularly language, and becomes preoccupied with making sense and order of the world that he appears to lose connection with his current reality as well as exhibiting great anxiety and confusion.. has a great n eed for sameness and repetition"

**6/85** Medie Ann Close (ED) "continues to be a loner .. chooses individual activities .. attention span is inconsistent , auditory direction is weak .. hard time following abstract directions .. becomes nervous and disorganized .. at times becomes very disoriented .. lapsing into unrealistic situations" MY note this particular teacher was very harsh with James and did not tolerate his behavior .. she had isolated on more than one occasion by putting him in the clothing closet .. which he never told me until years later .. he had her for two year in a row

**3/84** Mrs. Seaman "continues immature behavior .. difficult time following oral or written directions"

**3/84** Counselor Randi Willinger James is "bright sensitive boy who is fearful of social contact .. extremely imaginative but uses fantasy to avoid dealing with uncomfortable or painful interactions" (This is why he is using props like stuffed animals .. teddy bears or dolphins etc)

**2/86** Mrs. Napolitano (when he attended St. Patrick's in Harriman NY, part of Boces) "seldom interacts with peers .. during free time he tends to wander aimlessly through the room.. when he does interact it is usually inappropriate .. very oversensitive .. often feels unrightfully persecuted by others ..

**6/87** Sean Michel (St. Patrick's also) felt James made a good adjustment to new class "still has difficulty knowing difference between reality and fantasy .. tells stories that are inappropriate with class discussions .. needs a small structured (class) environment)

**10/89** Mrs. Smith James tries hard in counseling and has difficulty transferring into class situations .. often quite anxious .. Her Phase II report aims to "reduce anxiety and decrease perseveration on emotionally charged issues – to develop age appropriate peer relationships"

**8/14/91** Bd of Ed Notice of Determination Special Classes 12.1.1 Classified ED Mr. Herdemian learning rate "below average" building maint ½ day M-F Time waived for James and questions need to be read.. Grade 11 his Math was 3.2 and reading 9.8 .. he is a visual learner and can memorize details"

James needs "great deal of positive reinforcement to be successful during the school day .. needs encouragement to complete task assignments.. (Mr. H was the one who encouraged James to study the driver's manual to prepare to take the permit test .. He had James for two consecutive years as well

**1993** Pre vocational assessment

Extreme nervousness . Sorting skills – poor problem solving and discriminating skills took 6x longer and needed directions repeated 3x and had more than average number of errors

Assembly completed task with no errors but tok 3x longer .. did not use hand tools correctly .. Mail sort he was ok with

Recommendation: requires a lot of adult supervision and reminders to stay on task. Insecurities

**1993 6/30/93**

Mr. William Wiseman recommended James to attend Occupations which he did for a period of time

**Other Info**

**1994** James started receiving SSI in 1994 and went to Union St (through Occupations) for counseling (Pam Zino) but it did not work out (most of the other clients had alcohol and drug problems not emotional ones as he did and he become more anxious rather than benefiting from the counseling

He started seeing Dr. Lucas in 1998 and he has seen Dr. Lalire during this same perios .. with less counseling for a time with primarily as the need arose\

SSI continued

**2/7/00** Social Security certified as disabled and qualified for Social Security Disablity (under his father's SSD) SSI discontinued at this point

**4/8/83** Dr. John OBrien Warwick NY "it would be in (James) best interests to be classified as neurologically impaired"

**5/13/83** Winifred Earle Florida CSE Chair) provided info on Winslow Therapeutic Riding which James attended for several years

Additional Special Education

James was sent to several different BOCES satellite branches to find the right school environment for his needs. These include the following:

**9/84-6/85 Pine Tree Elementary** in Monroe NY (Mrs. Seaman smaller class size)

**9/85-6/86 St Patrick's** (Harriman NY) (first half semester with Mrs. Zimmerman and the second half semester with Mrs Napolitano)

9/86 through 12/86 Mrs. Foley
1/87 through 6/87 Mr. Sean Michel This is still St. Patricks

**9/87** St. Patrick's for one month

**10/87 through 8/89 St. Dominic's School** in Rockland County (full 12 month programs)

Additional BOCES and post BOCES Information

**91-92** school year in the **Vo tech program** James worked ad Valley View Thursday and Friday in housekeeping (Mr. Herdemian was his home room teacher)
**92-93** school James continued in the **Vo tech program** at BBOCES in housekeeping at Valley View (Mr. Greenhut was his home room teacher)

**9/93 through 2/94** James went to **Occupations** while at BOCES- did floor work and kitchen (5X/week approx 11 am – 2 pm)
not at Infirmary (Valley View) during remainder of 1994 Graduated from BOCES 6/94 and went to Occupations (Union Street Program) He continued until 1996 at Union Street - his therapy was mostly involving relapse prevention and alcohol and substance abuse (most clients) He did not fit into this program

**1995** Summer Youth Program working at Infirmary (Valley View) James was still eligible for this program

**6/96** When he no longer was at Occupations he went back to Valley View
6/96 spoke with Nancy Hadley (Volunteer director) who knew James from BOCES and asked if he could do volunteer work
**7/96** Orientation at Valley View and start of volunteer work

**APPENDIX 2 TO DECLARATION**

Psychological evaluation, dated August 13 & 20, 2009

LUCAS
ASSOCIATES

Véga A. Lalire, Ph.D
Licensed Psychologist

## PSYCHOLOGICAL EVALUATION

**NAME:** **James McElwee**
**DATE OF BIRTH:** **May 11, 1974**
**DATES OF EVALUATION:** **August 13 & 20, 2009**

**REASON FOR REFERRAL:** James McElwee, a 35-year-old right-handed man, lives with his mother. His mother requested an updated psychological evaluation as part of the process for determining eligibility as a developmentally disabled person and to obtain services to facilitate a transition to community living.

**MEANS OF ASSESSMENT:**
Review of Records
Interview of Mother
Interview of Mr. McElwee
WAIS-IV: Wechsler Adult Intelligence Scale- Fourth Edition
WMS-IV: Wechsler Memory Scale- Fourth Edition
Vineland-II Adaptive Behavior Scales, Survey Interview Form
ASDS: Asperger Syndrome Diagnostic Scale (nonstandard usage)

**RELEVANT BACKGROUND:** Mr. McElwee was the oldest of three boys. His father passed away in 2002; he lives with his mother who is retired.

His parents became aware of language, behavior, and social peculiarities when he went to nursery school. Speech was somewhat delayed; he tended to speak too loudly. If engaged in an activity and anything disrupted it, he would have to start over again. He tended to "space out" and wander away. Adults generally found him engaging whereas he did not relate to peers. When he entered elementary school, he was placed in special educational programming. High school special education took place in a Catholic school, then BOCES in 1989 where he remained there until he graduated in 1994 (IEP Diploma). Before graduation, he began an Occupations programming in Middletown, NY. Vocational training (maintenance and food service) was not successful and he then participated in the Day Treatment Program. In the summer of 1996 he left and began volunteer work at the county infirmary in Goshen, now named Valley View. He has remained there to date in a voluntary capacity. Mr. McElwee stated, upon inquiry, that

his jobs are picking up clothing, linens, and bibs after meals, and transporting wheelchairs. He also added that he watched the "performers" (people who come to entertain the residents) and takes walks there.

Reports of his behavior at school and Occupations emphasized Mr. McElwee's poor social skills and judgment. He had trouble accepting direction and easily became involved in arguments with peers. When he became older, he repeatedly approached girls/women and obsessed about their rejection of him. There was an early recognition (see reports of evaluations which follow) of his pattern of behavior being consistent with pervasive developmental disorder (PDD) or an autistic spectrum disorder. As a young adult at Occupations he was diagnosed with Schizoaffective Disorder. (Perhaps the PDD was recognized, but because of programming requirements he had to be given a "psychiatric" rather than a "developmental" diagnosis.)

Mr. McElwee began treatment with Dr. John Lucas (psychiatrist) and myself in 1996. Whereas psychotherapy only continued for about two years, Dr. Lucas has managed his medication to date. At first he was diagnosed with atypical mood or bipolar disorder. Later the true diagnosis of PDD became apparent. Mr. McElwee demonstrated stereotyped mannerisms, inflexible, perseverative thinking, extreme misinterpretation of social cues, and poor interpersonal relationships. It became apparent that his angry outbursts arose from a sustained high level of anxiety and low self-esteem. A secondary diagnosis of depression was made and responded well to medication (Zoloft and Risperdal). Mr. McElwee himself has recognized how much he has improved in anger control and self-esteem. In contrast, he has trouble understanding how he distorts the meaning of others' actions and how his behavior contributes to poor interpersonal relationships with others.

**PREVIOUS EVALUATIONS:** When he was eight years old he was evaluated by a pediatric neurologist, Dr. Colantuono, at St. Francis Hospital. A review of James' developmental history revealed that the pregnancy was normal, birth was by Caesarian section (his head was big), walking was at age nine months, and talking in sentences was not achieved until he was almost three years old. Except for problems in fine motor coordination, the neurological examination was "unremarkable." Structural, metabolic, and electroconvulsive disorders were ruled out. The "working diagnosis" was "childhood autism" based on reported and observed behaviors.

In 1986, Dr. Liss (educational psychologist) evaluated James. She noted that a 1983 evaluation demonstrated a Full Scale IQ of 73 (WISC-R). Her testing revealed a Full Scale IQ of 86 on the same test. Among Verbal subtests, Comprehension was the weakest in contrast to average measures of vocabulary, conceptualization, and fund of general information. Dr. Liss delineated many behaviors which she considered to be congruent with the diagnosis of "pervasive developmental disorder": oddly expressed affect, literal interpretation, inflexibility, obsessions about which he talked excessively to inappropriate audiences, and misinterpretation of others' behavior and feelings.

Dr. Yasnovsky, psychiatrist, began treating James in 1986. In August 1990 she wrote an evaluation. Previously James had misinterpreted the outside world as so frightening that the doctor considered his thinking to be delusional, but this was no longer the case. Mood was labile; thought processes were perseverative. Because he could not pick up on social cues, she opined that he felt insecure with peers. The diagnosis was Atypical Pervasive Development Disorder.

When he was 18 years old (November 1992) a triennial psychological evaluation was administered by Mr. Schofield of the Guidance Center of BOCES, Putnam/Northern Westchester. (James was attending a BOCES vocational-educational program in Goshen at the time.) He presented as anxious but denied the feeling. Attention and cooperation were good. However, he became unduly angry in describing a behavior problem he had experienced at school. On the WAIS-R he obtained a Full Scale IQ score of 78. Among Verbal subtests there was no significant variability. The psychologist described his impression of James' social-emotional functioning: There was distortion of social cues and interpretation of people's intentions. James had difficulty in regulating his behavior; he could be impulsive and perhaps aggressive.

On March 1, 1994 James' teacher wrote a letter to the CSE. She expressed deep concern about his social interactions. He became easily angered by his classmates' comments. All the teacher could do was to try to prevent their saying anything which might upset him. As a result he had little interaction with them. The teacher felt he would benefit from interactive group experiences.

Two CSE meetings in May 1994 considered programming for James after he would graduate that June. He was not deemed ready for vocational training. Poor socialization skills were of concern. It was anticipated that he would continue at Occupations' Union Street Day Treatment Center after graduation.

**BEHAVIORAL OBSERVATIONS:** Mr. McElwee is a tall, obese, adequately groomed man who dresses mainly in black. (The reason for this choice, he says, is that "black is good but not perfect" like himself.) He moves awkwardly. Oriented to person, place, and time, he keeps up with major current events. Eye contact is intermittent and peculiar in intensity. Speech has a singsong prosody; facial expressions are exaggerated and distorted, sometimes not consistent with the feeling he is expressing. Anxiety is manifest. He demonstrates constant, stereotyped movements of rubbing his leg or twisting his fingers. He employs the same phrases repetitively, such as saying, "I can't lie" about maters in which lying is not an issue. Content of speech is self-referential, often not relevant, without the information necessary for someone else to understand about what he is talking. Mr. McElwee has much trouble letting go of a topic when appropriate to do so. A dominant theme is the unfairness of life, how everything is against him. For example, being held up by roadwork is interpreted as a personal affront to himself. Thought processes range from concrete and logical to tangential, disorganized, and illogical. What strikes him as funny is unusual in a man his age; e.g., when he hears the expression "salty dog," he imagines pouring salt on a dog's back. His laughter is stilted.

Mr. McElwee took the testing quite seriously. He was fully cooperative and put forth sustained effort. At first his hand was shaking with anxiety and he rubbed his leg continuously when not having to use his hands. For a task which required pointing, he did it in a stereotyped, exaggerated way.

**INTELLECTUAL FUNCTIONING:** On the WAIS-IV Mr. McElwee achieved a Full Scale IQ score of 79 (90% confidence interval of 76 to 83) with an eighth percentile rank. The classification was the borderline range, below low average and above deficient.

There were four component indices: Verbal Comprehension (VCI) with a standard score of 93; Perceptual Reasoning (PRI) with a score of 79; Working Memory (WMI) with a score of 89, and Processing Speed (PSI) with a score of 71. VCI was significantly higher (at the 0.05 level of significance) than both PRI and PSI; WMI was likewise significantly stronger than PRI and PSI.

Among the subtests of Verbal Comprehension, Information (high in the average range) was significantly better than each of the other three, Similarities, Vocabulary, and Comprehension (additional subtest which did not contribute to the PRI). Information evaluated fund of general knowledge; Similarities assessed conceptualization; Vocabulary required explaining the meaning of words; Comprehension, in the borderline range, measured awareness of social concepts and conventions. Mr. McElwee obtained only partial credit on some of the easiest items; for example, he could not fully answer why clothes needed to be washed.

The scores on the two subtests of Working Memory, which was the ability to track information mentally while meeting task demands, were widely diverse. Whereas the score on Digit Span was high in the average range, Arithmetic fell in the borderline range. For Digit Span, he could hold in mind and rearrange sequences of up to seven digits. In contrast, on Arithmetic (orally presented word problems) Mr. McElwee did not seem able to keep the numbers in mind while figuring out what operation to use and carrying it out.

The three subtests of Perceptual Reasoning did not differ significantly from each other; they were borderline to low average. Block Design assessed visual-spatial analysis/synthesis with physical manipulation whereas Visual Puzzles considered it through mental manipulation. Matrix Reasoning evaluated nonverbal analogic and sequential problem-solving.

Likewise, the two subtests of Processing Speed did not differ; they were at the deficient-borderline intersection. For both, novel, but low-meaning and repetitive, material was focused upon as rapidly as possible for a short period of time; i.e., two minutes per task.

**ADAPTIVE FUNCTIONING:** On the Vineland-II Mrs. McElwee acted as respondent by providing, through interview, the information needed to complete it. The Adaptive Behavior Composite was 37 (90% confidence interval of 30 to 44) with less than a first

percentile rank. The adaptive level was Low; more specifically, the classification of the Composite score fell in the range of moderate deficit. Moreover, the adaptive level of each of the domains, Communication, Daily Living Skills, and Socialization, as well as all the component subdomains, was Low.

There was no significant difference among the three subdomains of Communication. At best, under Receptive, Mr. McElwee could attend to a lecture for at least 30 minutes. Weaknesses involved following three-part and previously heard directions. Under Expressive it was noted that he could provide reasonably complicated directions based on his ability to read maps. Conversational skills were limited (i.e., he could be inflexible or tangential) and he could not describe what he needed to do to achieve a short-term goal, let alone a long-term one. Reading skills (subdomain Written) were at a sixth grade level; he read some of the newspaper. However, he wrote little, not even short correspondence of a few lines.

The domain Daily Living Skills was a relative strength. All basic self-care skills were adequate with prompting, except he did not always consider the weather in selecting clothes. Moreover, Mr. McElwee did not manage his medical needs, such as keeping track of his medication and scheduling medical appointments, although he would sometimes reschedule them if needed. In contrast to his accomplishments on the Personal subdomain, Domestic was weak. Food preparation was simple; he mostly just used the microwave. Cleaning was minimal, even picking up after himself; he made some attempt at washing clothes but did not usually put them in the dryer and did not put them away in his room. Under Community Mr. McElwee had a relatively strong specific skill; he was able to use a car to get himself to new places as well as familiar ones. He could count change correctly but appeared to have no concept of quality and price in making purchases and did not keep track well of how he was spending his monthly allowance. He earned no money but held a volunteer job; punctuality was poor.

Among the subdomains of Socialization, Interpersonal Relationships was the weakest. Mr. McElwee had one close friend, whom he had known since high school and with whom he visited regularly. He did not express concern or happiness for others nor recognize other people's likes and dislikes. At times, but not consistently, he initiated small talk, discussed common interests with others and maintained appropriate interpersonal distance. He had trouble understanding that people could not "read" his thoughts and he was often not careful about what he said in public. For example, angry about something he could not do, he muttered to himself loud and long enough to concern the librarian who knew him well. Considering the subdomain Leisure Time, a significant strength was his going out with his friend without "adult supervision." However, most of his social interactions with peers were within the framework of structured group activities. He did not play complex board nor electronic games, could not follow rules in sports, and was not sensitive to interrupting others.

Appropriate behaviors under Coping Skills were erratic. Strengths were his ability to keep confidences as long as necessary and to avoid risky activities and situations. In contrast, he did not apologize for errors in judgment and did not control his feelings when

he did not get his way or was constructively criticized. He was not able to think through the consequences before making decisions.

**RATING SCALE:** No standardized rating scale was available for evaluating adults for the possible diagnosis of Asperger Syndrome at the upper end of the autistic spectrum disorders or PDD. Therefore, the ASDS, designed for children/youth (ages 5 to 18), was employed to provide a systematic assessment of symptoms, independent of clinical judgment, as to the appropriateness of the diagnosis. Mrs. McElwee completed the ASDS. Items were selected based on their relatedness to formal diagnostic criteria (and observed characteristics) and on a selection of children/youth, independently diagnosed with Asperger's. Each item was marked as "observed" or "not observed." The resulting score for a rated individual indicated how much his behavior was like the average youth with Asperger Syndrome or the likelihood of the diagnosis.

For Mr. McElwee the ASQ (Asperger Syndrome Quotient) was 97, indicating that the probability of his being diagnosed with Asperger's was average. Examples of characteristics on the subscale Language were his tendency to talk excessively about what he liked whether or not it interested others, to interpret conversations literally, and to speak with odd prosody. Characteristics under Social included difficulty understanding the feelings of others and social cues, showing inappropriate facial expressions, and having few friends despite wanting them. Mr. McElwee expressed his belief that people liked to hear him praise himself in public. Under the subscale Maladaptive, Mrs. McElwee indicated that her son reacted strongly to change in his routine, acted immaturely, and tried to impose his narrow interests and routines on others. All items on the Cognitive subscale, except one involving awareness of his difference from others, were marked as observed in her son; e.g., being overly sensitive to criticism (he became angry), lacking organizational skills and common sense, and functioning best doing familiar, repeated tasks. Finally, on the Sensorimotor scale, Mr. McElwee was noted to react strongly to loud noise and to stiffen when hugged. Fine motor skills were awkward. He ate in a rigid manner, one food at a time in a specific order.

**FORMULATION:** Information from history, results of rating scales based on information provided by his mother, and behavioral observations are consistent with a developmental disability of Pervasive Developmental Disorder - Not Otherwise Specified (PDD NOS). His overall intellectual functioning falls in the borderline range. Even with verbal skills reaching the average range, especially the ability to pick up and remember facts, communicative abilities are no where near that level. Adaptive functioning falls in the moderately deficient range because of impairments in communication, in social perception, and in interpersonal interactions as well as a restricted pattern of interests and poor adaptability.

Before the age of three, delays in language and peculiarities in behavioral and social interactions were observed. These impairments have been noted ever since along with an ongoing restricted patterns of behavior with overreactions when his routine or expectations are interrupted.

The DSM-IV (American Psychiatric Association, Diagnostic and Statistical Manual, Fourth Edition) criteria for Autistic Disorder include "qualitative impairments in social interaction and communication" as well as "restricted repetitive and stereotyped patterns of behavior, interests, and activities." Difficulty in social interaction is seen in his strange eye contact and facial expressions in regulating social behavior and despite one old friend, a failure to develop peer interactions appropriate for his age (i.e., dating and new friendships). Furthermore, impaired social/emotional reciprocity (does not take the other person's point of view in mind) despite wanting to interact with others is observed. The impairment in communication is not as strong. He does use stereotyped and idiosyncratic language, but although his conversation tends to be one-sided, he does initiate it with others. Because the impairment in communication is not as severe as may be associated with Autism, the diagnosis of PDD NOS seems more appropriate. For the other criterion, many pathognomic behaviors are observed: stereotyped, repetitive motor mannerisms and preoccupation with the unfairness of life for him which is "abnormal in intensity and focus." He becomes stuck in ways of doing or seeing matters and is extremely resistant to logical redirection. Although not directly stated in the DSM-IV criteria, his overreactions to being asked to change his behavior exemplify the powerfulness of his adherence to a restricted routine. Mr. McElwee has greatly improved in this area. He no longer has severe outbursts of anger, although he still reveals unusual preservative extremes of feeling when his ideas or activities are criticized, even in a constructive, benevolent manner. However, his symptoms are more severe than expected for someone with Asperger's Disorder; therefore the diagnosis of PDD NOS is a better fit.

Strengths in Mr. McElwee's adaptive behavior lie in following easy routines. Domestic skills are most likely lower than his potential ability. These cannot be developed while he remains at home because of long-standing patterns of being cared for by his parents. Although he would be disturbed by a new environment, and his adaption would be slow, it is what is required to enable him to develop such skills as cleaning and washing clothes appropriately and taking his medicine as directed. Activities which are less routine, such as making doctors' appointments and using judgment in making purchases, will be more difficult for him to acquire. He would be highly unlikely to be able to manage all his funds or to work in an unsheltered environment. The area in which he would be least likely to improve significantly, to any point of independence, is in social relationships. Much prompting may enable him to learn how to behave in specific situations (not interrupting others, offering a helping hand when he sees someone struggling, seeing an interaction from the other person's point of view), but he is very poor at generalization.

In sum, Mr. McElwee is diagnosed with the developmental disability of Pervasive Developmental Disorder NOS. He would benefit from special services, and eventually residential placement, to enable him to function up to his potential level when his mother would no longer be able to care for him.

Véga A. Lalire

Véga A. Lalire, PhD
Licensed Psychologist

## TEST SCORES

### WAIS-IV

| | |
|---|---|
| Verbal IQ | 79 * |
| Verbal Comprehension | 93 |
| Perceptual Reasoning | 79 |
| Working Memory | 89 |
| Processing Speed | 71 |
| Subtests | |
| Similarities | 8 ** |
| Vocabulary | 7 |
| Information | 11 |
| (Comprehension | 5) |
| Block Design | 7 |
| Matrix Reasoning | 7 |
| Visual Puzzles | 5 |
| Digit Span | 11 |
| Arithmetic | 5 |
| Symbol Search | 5 |
| Coding | 4 |

### Vineland-II

| | |
|---|---|
| Adaptive Behavior Composite | 37 * |
| Communication | 33 * |
| Receptive | Low |
| Expressive | Low |
| Written | Low |
| Daily Living Skills | 47 * |
| Personal | Low |
| Domestic | Low |
| Community | Low |
| Socialization | 38 * |
| Interpersonal Relationships | Low |
| Play and Leisure Time | Low |
| Coping Skills | Low |

## TEST SCORES (continued)

**ASDS**

| | |
|---|---|
| ASQ | 97 * |
| Language | 11 ** |
| Social | 9 |
| Maladaptive | 8 |
| Cognitive | 11 |
| Sensorimotor | 9 |

* *Standard Score, mean= 100, standard deviation= 15*

** *Scaled Score, mean= 10, standard deviation= 3*